

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ORDER
08-CR-94

KIM BENACQUISTA,
RAYMOND BENACQUISTA,

Defendants.

The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(A). On June 6, 2009, Magistrate Judge Scott filed a Report and Recommendation, recommending that defendant Kim Benacquista's motion to dismiss the Indictment be denied; defendants' joint motion to dismiss Count III be denied; defendant Kim Benacquista's motion to strike portions of the Indictment be denied; and defendants' joint motion for a Franks hearing for their motions to suppress evidence seized pursuant to search warrants be granted in part.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties. No objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendant Kim

Benacquista's motion to dismiss the Indictment is denied; defendants' joint motion to dismiss Count III is denied; defendant Kim Benacquista's motion to strike portions of the Indictment is denied; and defendants' joint motion for a Franks hearing for their motions to suppress evidence seized pursuant to search warrants is granted in part.

The case is referred back to the Magistrate Judge Scott for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: August 19, 2009